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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 SUNIL KUMAR, PH. D. , et al.

10 Plaintiff(s),

11 v.

12 JOLENE KOESTER , et al.

13
14 Defendant(s).
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CASE NO:

2:22-cv-07550-RGK-MAA

ORDER FOR JURY TRIAL

Pretrial Conference:

October 16, 2023 at 09:00 AM

Jury Trial Date:

October 31, 2023 at 09:00 AM

17
18 UNLESS OTHERWISE ORDERED BY THE COURT, THE FOLLOWING
19 RULES SHALL APPLY:

20 **SCHEDULING**

21 **1. In General**

22 All motions to join other parties or to amend the pleadings shall be filed by
23 the deadline that the Court established at the Scheduling Conference.

24 Motions for summary judgment or partial summary judgment shall be filed as
25 soon as practical, however, in no event later than the motion cut-off date.

26 **2. Discovery Cut-Off**

27 The Court has established a cut-off date for discovery in this action. All
28 discovery shall be complete by the discovery cut-off date specified in the

1 Scheduling Order. **This is not the date by which discovery requests must be**
2 **served; it is the date by which all discovery is to be completed.**

3 In an effort to provide further guidance to the parties, the Court notes the
4 following:

5 a. Depositions

6 All depositions shall be scheduled to commence sufficiently in advance of the
7 discovery cut-off date to permit their completion and to permit the deposing party
8 enough time to bring any discovery motion concerning the deposition prior to the
9 cut-off date.

10 b. Written Discovery

11 All interrogatories, requests for production of documents, and requests for
12 admission shall be served sufficiently in advance of the discovery cut-off date to
13 permit the discovering party enough time to challenge (via motion practice)
14 responses deemed to be deficient.

15 c. Discovery Motions

16 Whenever possible, the Court expects the parties to resolve discovery
17 problems among themselves in a courteous, reasonable and professional manner.
18 The Court expects that counsel will strictly adhere to the Civility and Professional
19 Guidelines adopted by the United States District Court for the Central District of
20 California in July, 1995.

21 Discovery matters are referred to a United States Magistrate Judge. **Any**
22 **motion challenging the adequacy of responses to discovery must be filed**
23 **timely, and served and calendared sufficiently in advance of the discovery**
24 **cut-off date to permit the responses to be obtained before that date, if the**
25 **motion is granted.**

26 Consistent resort to the Court for guidance in discovery is unnecessary and
27 will result in the appointment of a Special Master at the joint expense of the parties
28 to resolve discovery disputes.

1 **3. Mandatory ADR**

2 Pursuant to Local Rule 16-15, the parties in every case must select an ADR
3 settlement procedure. The final meeting with the parties' settlement officer must
4 take place no later than 45 days before the Final Pretrial Conference. Local Rule
5 16-15.2.

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7 **FINAL PRE-TRIAL CONFERENCE**

8 This case has been placed on calendar for a Final Pre-Trial Conference
9 pursuant to Fed.R.Civ.P. 16 and 26. Unless excused for good cause, each party
10 appearing in this action shall be represented at the Final Pre-Trial Conference, and
11 all pre-trial meetings of counsel, by the attorney who is to have charge of the
12 conduct of the trial on behalf of such party.

13 STRICT COMPLIANCE WITH THE REQUIREMENT OF FED.R.CIV.P.
14 26 AND LOCAL RULES ARE REQUIRED BY THE COURT. Therefore,
15 carefully prepared Memoranda of Contentions of Fact and Law, a Joint Witness
16 List, and Joint Exhibit List shall be submitted to the Court. The Joint Witness List
17 shall contain a brief statement of the testimony for each witness, **what makes the**
18 **testimony unique** from any other witness testimony, and the time estimate for
19 such testimony. The Joint Exhibit List shall contain any objections to authenticity
20 and/or admissibility to the exhibit(s) and the reasons for the objections.

21 The Memoranda of Contentions of Fact and Law, Witness List and Exhibit
22 List are due twenty-one (21) days before the Final Pre-Trial Conference.

23 As for the disclosure of expert witnesses and exchange of written reports, the
24 parties must follow Rule 26. In addition, if the parties intend to call expert
25 witnesses at trial, they shall file within five (5) days before the Final Pre-Trial
26 Conference short narrative statements of the qualifications of each expert and the
27 testimony expected to be elicited at trial.

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1 **TRIAL PREPARATION FOR JURY TRIAL**

2 **MOTIONS, INSTRUCTIONS AND EXHIBITS**

3 THE COURT ORDERS that all counsel comply with the following in their
4 preparation for trial:

5 **1. MOTIONS IN LIMINE:**

6 All motions in limine must be filed and served a minimum of forty-five (45)
7 days prior to the scheduled trial date. Each motion should be separately filed and
8 numbered. All opposition documents must be filed and served at least twenty-five
9 (25) days prior to the scheduled trial date. All reply documents must be filed and
10 served at least ten (10) days prior to the scheduled trial date.

11 All motions in limine will be ruled upon on or before the scheduled trial date
12 and should not be noticed for motion on any date other than the assigned trial date.

13 **2. JURY INSTRUCTIONS/SPECIAL VERDICT FORMS**

14 Thirty-five (35) days before trial, plaintiff shall serve plaintiff's proposed jury
15 instructions and special verdict forms on defendant. Twenty-eight (28) days before
16 trial, defendant shall serve on plaintiff defendant's objections to plaintiff's
17 instructions together with any additional instructions defendant intends to offer.
18 Twenty-one (21) days before trial, plaintiff shall serve on defendant plaintiff's
19 objections to defendant's instructions. Twenty-one (21) days before trial, counsel
20 are ordered to meet and confer to attempt to come to agreement on the proposed
21 jury instructions. The parties shall make every attempt to agree upon the jury
22 instructions before submitting them to the Court. It is expected that counsel will
23 agree on the substantial majority of jury instructions, particularly where patent
24 instructions are involved.

25 **Sixteen (16) days before trial, counsel shall file with the Court a JOINT**
26 **set of jury instructions on which there is agreement.** Defendant's counsel has
27 the burden of preparing the joint set of jury instructions. At the same time each
28 party shall file its proposed jury instructions which are objected to by any other

1 party, accompanied by points and authorities in support of those instructions.

2 When the parties disagree on an instruction, the party opposing the instruction
3 must attach a short statement (one to two paragraphs) supporting the objection, and
4 the party submitting the instruction must attach a short reply supporting the
5 instruction. Each statement should be on a separate page and should follow directly
6 after the disputed instruction.

7 The parties ultimately must submit one document, or if the parties disagree
8 over any proposed jury instructions, three documents. The three documents shall
9 consist of: (1) a set of Joint Proposed Jury Instructions; (2) Plaintiff's Disputed Jury
10 Instructions; and (3) Defendant's Disputed Jury Instructions. Any disputed Jury
11 Instructions shall include the reasons supporting and opposing each disputed
12 instruction in the format set forth in the previous paragraph.

13 The Court directs counsel to use the instructions from the Manual of Model
14 Jury Instructions for the Ninth Circuit where applicable. Where California law is to
15 be applied and the above instructions are not applicable, the Court prefers counsel
16 to use the California Jury Instructions in either BAJI or CACI. If none of these
17 sources is applicable, counsel are directed to use the instructions in Devitt,
18 Blackmar and Wolff, Federal Jury Practice and Instructions.

19 Modifications of instructions from the foregoing sources (or any other form
20 instructions) must specifically state the modification made to the original form
21 instruction and the authority supporting the modification.

22 Each requested instruction shall be set forth in full; be on a separate page; be
23 numbered; cover only one subject or principle of law; not repeat principles of law
24 contained in any other requested instructions; and cite the authority for a source of
25 the requested instruction. In addition to the foregoing, each party shall file with the
26 Courtroom Deputy on the first day of trial a "clean set" of the aforesaid requested
27 duplicate jury instructions in the following form:

28 Each requested instruction shall be set forth in full; be on a separate page with the

caption “COURT’S INSTRUCTION NUMBER ”; cover only one subject or principle of law; and not repeat principles of law contained in any other requested instruction. The “clean set” shall not cite the authority for a source of the requested instruction.

An index page shall accompany all jury instructions submitted to the Court. The index page shall indicate the following:

- the number of the instruction;
- a brief title of the instruction;
- the source of the instruction and any relevant case citation; and
- the page number of the instruction.

EXAMPLE:

<u>NO.</u>	<u>TITLE</u>	<u>SOURCE</u>	<u>PAGE NO.</u>
5	Evidence for Limited Purpose	9th Cir. 1.5	9

During the trial and before argument, the Court will meet with counsel and settle the instructions. Strict adherence to time requirements is necessary for the Court to examine the submissions in advance so that there will be no delay in starting the jury trial. **Failure of counsel to strictly follow the provisions of this section may subject the non-complying party and/or its attorney to sanctions.**

3. TRIAL EXHIBITS:

Counsel are to prepare their exhibits for presentation at the trial by placing them in binders which are indexed by exhibit number with tabs or dividers on the right side. Counsel shall submit to the Court an original and one copy of the binders. The exhibits shall be in a three–ring binder labeled on the spine portion of the binder as to the volume number and contain an index of each exhibit included in the volume. Exhibits must be numbered in accordance with Fed.R.Civ. P. 16, 26 and the Local Rules.

The Exhibit list shall indicate which exhibits are objected to, the reason for the objection, and the reason it is admissible. Failure to object will result in a

1 waiver of objection.

2 The Court requires that the following be submitted to the Courtroom Deputy
3 Clerk on the first day of trial:

- 4 • The **original exhibits with the Court's exhibit tags** shall be stapled to
5 the front of the exhibit on the upper right-hand corner with the case
6 number, case name, and exhibit number placed on each tag. Exhibit
7 tags can be obtained from the Clerk's Office, Civil/Criminal Intake
8 Windows, Roybal Courthouse.
- 9 • **One bench book with a copy of each exhibit for use by the Court,**
10 tabbed with numbers as described above. (Court's exhibit tags not
11 necessary.)
- 12 • **Three (3) copies of exhibit lists.**
- 13 • **Three (3) copies of witness lists** in the order in which the witness may
14 be called to testify.
- 15 • **Counsel are ordered to submit a short joint statement of the case**
16 **seven (7) days before trial that the Court may read to the**
17 **prospective panel.**
- 18 • **All counsel are to meet not later than ten (10) days before trial** and
19 to stipulate so far as is possible as to foundation, waiver of the best
20 evidence rule, and to those exhibits which may be received into
21 evidence at the start of trial. The exhibits to be so received will be
22 noted on the copies of the exhibit lists.
- 23 • Counsel may, but need not, submit brief proposed voir dire questions
24 for the jury seven (7) calendar days before the Pretrial Conference.
25 The Court will conduct its own voir dire after considering any
26 proposed voir dire submitted by counsel.

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- Any items that have not been admitted into evidence and are left in the courtroom overnight without prior approval, will be discarded.



DATED: March 6, 2023

Hon. R. Gary Klausner
United States District Judge